

Federal Housing Finance Agency
Office of Inspector General



FHFA Complied with Applicable Improper Payment Requirements for Fiscal Year 2018

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Executive Summary

The Improper Payments Information Act of 2002, as amended by the Improper Payments Elimination and Recovery Act of 2010 and the Improper Payments Elimination and Recovery Improvement Act of 2012 (collectively, IPIA), requires federal agencies to periodically review, estimate, and report programs and activities that may be susceptible to significant improper payments. IPIA, among other things, directs federal Inspectors General to determine annually whether their respective agencies are in compliance with the statute and to submit a report to the head of the agency, Congressional oversight committees, the Comptroller General of the United States, and the controller of the Office of Management and Budget (OMB).

The Federal Housing Finance Agency (FHFA or Agency), through its Office of General Counsel (OGC), maintains that most requirements of the IPIA are not applicable to the Agency because those requirements apply only to payments made with federal funds and FHFA does not finance its operations with federal funds. That said, FHFA asserts that it has put into place internal controls to achieve the intent of IPIA. We conducted a performance audit to assess the Agency's compliance with the IPIA for fiscal year 2018. We found that FHFA complied with the applicable provisions of the IPIA.

This report was prepared by Heath Wolfe, Director of Audit Operations, with the assistance of Bob Taylor, Senior Advisor. We appreciate the cooperation of FHFA staff, as well as the assistance of all those who contributed to the preparation of this report.

This report has been distributed to FHFA, Congress, OMB, the Government Accountability Office (GAO), and others and will be posted on our website, www.fhfaoig.gov.

Marla A. Freedman, Deputy Inspector General for Audits /s/

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ABBREVIATIONS

AFR	Agency Financial Report
FHFA or Agency	Federal Housing Finance Agency
GAO	Government Accountability Office
IPIA	Improper Payments Information Act of 2002, as amended by the Improper Payments Elimination and Recovery Act of 2010 and the Improper Payments Elimination and Recovery Improvement Act of 2012
OGC	Federal Housing Finance Agency Office of General Counsel
OIG	Federal Housing Finance Agency Office of Inspector General
OMB	Office of Management and Budget
OMB M-18-20	Office of Management and Budget Memorandum M-18-20, Transmittal of Appendix C to OMB Circular A-123, <i>Requirements for Payment Integrity Improvement</i>
PAR	Performance and Accountability Report
U.S.C.	United States Code

BACKGROUND.....

Because federal agencies regularly make payments to program beneficiaries, grantees, vendors, and contractors, or on behalf of program beneficiaries, there is a possibility that some of these payments may be “improper” in one or more respects. To provide estimates and report improper payments by federal agencies, Congress enacted IPIA in 2002,¹ which it amended in 2010 and 2013. IPIA requires federal agencies to periodically review, determine, estimate, and report programs and activities that may be susceptible to significant improper payments.² According to IPIA, the term “payment” means:

[A]ny transfer or commitment for future transfer of federal funds such as cash, securities, loans, loan guarantees, and insurance subsidies to any non-federal person or entity or a federal employee, that is made by a federal agency, a federal contractor, a federal grantee, or a governmental or other organization administering a federal program or activity.³

To provide further guidance to federal agencies on the improper payments covered by IPIA, OMB issued a memorandum in June 2018 that defines “improper payment” as:

[A]ny payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. Incorrect amounts are overpayments or underpayments that are made to eligible recipients (including inappropriate denials of payment or service, any payment that does not account for credit for applicable discounts, [footnote omitted] payments that are for an incorrect amount, and duplicate payments). An improper payment also includes any payment that was made to an ineligible recipient or for an ineligible good or service, or payments for goods or services not received (except for such payments authorized by law). In addition, when an agency’s review is unable to discern whether a payment was proper as a result of insufficient or lack of documentation, this payment must also be considered an improper payment.⁴

¹ Public Law No. 107-300, 31 U.S.C. § 3321 note.

² Public Law No. 111-204, 31 U.S.C. § 3321 note.

³ Public Law No. 112-248, 31 U.S.C. § 3321 note.

⁴ OMB M-18-20, Transmittal of Appendix C to OMB Circular No. A-123, *Requirements for Payment Integrity Improvement* (June 26, 2018) (online at www.whitehouse.gov/wp-content/uploads/2018/06/M-18-20.pdf) [hereinafter OMB M-18-20].

IPIA directs federal agencies to put into place internal controls designed to eliminate payment errors, waste, fraud, and abuse, including reducing and recapturing erroneous payments. OMB M-18-20 establishes steps for agencies to follow to identify those operations subject to IPIA, and to design and implement appropriate internal controls to reduce the risk of improper payments:

1. Review all programs and activities and identify those that are susceptible to significant improper payments;
2. Obtain a statistically valid estimate of the annual amount of improper payments in programs and activities identified in Step 1;
3. Implement a plan sufficient to prevent or reduce improper payments; and
4. Report annually on improper payments in the agency financial report (AFR) or the performance and accountability report (PAR).⁵

To determine an agency's compliance with IPIA, IPIA and OMB M-18-20 require each agency Inspector General to review their agency's AFR or PAR (and any accompanying information) for the most recent fiscal year. Inspectors General are to complete their annual compliance reviews by May 15th of the following year and report their findings.^{6,7} If an Inspector General finds that an agency is not in compliance with IPIA, the agency is required to submit a plan to Congress describing the actions it will take to come into compliance.⁸ OMB M-18-20 provides detailed information on agency compliance planning and related efforts to become compliant.

FHFA issued its fiscal year 2018 PAR on November 15, 2018. Pursuant to IPIA, we conducted this performance audit.

⁵ OMB M-18-20, App. C. A PAR provides both financial and performance information that enables the President, Congress, and the public to assess the performance of an agency relative to its mission and to demonstrate accountability. An AFR provides similar information, but a performance section is not included. *See* OMB, Circular A-136, *Financial Reporting Requirements*, at 11-13 (Sept. 18, 2014).

⁶ OMB M-18-20, App. C, *supra* note 1, at Part IV § A(2).

⁷ In consideration of the recent partial Government shutdown, OMB extended the deadline for the Inspectors General compliance reviews from May 15, 2019, to June 3, 2019.

⁸ IPERA § 3(c)(1)(A), *see* 31 U.S.C. § 3321 note.

FACTS AND ANALYSIS

Not All IPIA Requirements Are Applicable to FHFA

In its 2018 PAR, FHFA makes no representations that it is covered by IPIA. Since 2012, FHFA’s OGC has advised our office that it has concluded that various subsections of IPIA are only applicable to payments made with federal funds, and that these subsections do not apply to FHFA because it is an independent regulatory agency that does not seek appropriations for its operations. Consequently, OGC reasons that payments made by the Agency, such as payments to vendors, are not transfers of federal funds.⁹

Figure 1 below lists the requirements in IPIA that an Inspector General is to review to determine an agency’s compliance with IPIA, and FHFA’s determination of the requirements’ applicability to its operations.

FIGURE 1. REQUIREMENTS FOR IPIA COMPLIANCE AND FHFA’S DETERMINATION OF APPLICABILITY TO ITS OPERATIONS - FISCAL YEAR 2018

IPIA Compliance Requirement	FHFA Determination of Applicability
The agency has published an annual AFR or PAR for the most recent fiscal year and posted that report and any accompanying materials required under guidance of OMB on the agency website.	FHFA determined that this requirement applies to the Agency; FHFA published its 2018 PAR.
The agency has conducted a program-specific risk assessment for each program or activity that conforms with IPIA (31 U.S.C. § 3321 note) (if required).	FHFA determined that this requirement is not applicable to the Agency.
The agency has published improper payments estimates for programs and activities identified as susceptible to significant improper payments under its risk assessment (if required).	FHFA determined that this requirement is not applicable to the Agency.
The agency has published programmatic corrective action plans in its PAR or AFR (if required).	FHFA determined that this requirement is not applicable to the Agency.
The agency has published, and is meeting, improper payments reduction targets for each program assessed to be at risk and estimated for improper payments (if required and applicable).	FHFA determined that this requirement is not applicable to the Agency.
The agency has reported a gross improper payment rate of less than 10 percent for each program and activity for which an estimate was obtained and published in its AFR or PAR.	FHFA determined that this requirement is not applicable to the Agency.

⁹ See 12 U.S.C. § 4516(f).

OIG's Office of Counsel reviewed FHFA's legal memorandum supporting its determinations of applicability and concluded that FHFA's analysis was reasonable.

Notwithstanding the applicability of IPIA's compliance requirements, FHFA advises in its PAR:

FHFA, in the spirit of compliance and as part of its sound internal control structure, has established controls to detect and prevent improper vendor payments. ... FHFA has not identified any programs or activities susceptible to significant improper payments that meet IPIA's thresholds.¹⁰

To assess this representation by FHFA, we reviewed the following FHFA procedures and guidance implemented for fiscal year 2018 to mitigate the risks of fraud, misuse, and payment delinquency:

- Invoice and payment procedures;
- Purchase charge card procedures;
- Accrual and deobligation procedures; and
- Micro-purchase procedures and supplemental purchase cardholder guidance.

We noted no weaknesses in the design of these procedures and guidance. Furthermore, GAO is charged with performing the audit of FHFA's annual financial statements.¹¹ As part of its audit, GAO audits FHFA's internal control over financial reporting. In its report *Financial Audit: Federal Housing Finance Agency's Fiscal Years 2018 and 2017 Financial Statements*, GAO opined that FHFA maintained, in all material respects, effective internal control over financial reporting as of September 30, 2018, based on relevant criteria. GAO did not communicate any deficiencies with the Agency's invoice and payment process controls to FHFA.

¹⁰ See FHFA, *Fiscal Year 2018 Performance and Accountability Report* (Nov. 15, 2018) (online at www.fhfa.gov/AboutUs/Reports/Pages/Performance-and-Accountability-Report-2018.aspx).

¹¹ 12 U.S.C. § 4516(h).

CONCLUSION.....

We conclude that FHFA complied with the IPIA compliance requirement applicable to the Agency – publication of its PAR. Therefore, we determined that FHFA complied with IPIA. As to the other IPIA compliance requirements for Inspector General review that FHFA opined are not applicable to its operations, we determined that its analysis was reasonable.

FHFA COMMENTS AND OIG RESPONSE.....

OIG provided FHFA an opportunity to respond to a draft report of this audit. In its management response, which is included as an appendix to this report, FHFA acknowledged our conclusion that it complied with the applicable provisions of the IPIA.

OBJECTIVE, SCOPE, AND METHODOLOGY

Our audit objective was to determine FHFA’s compliance with IPIA. The scope of the audit covered the period October 1, 2017, through September 30, 2018.

To accomplish the audit, we:

- Reviewed OIG’s prior IPIA audit documentation and audit report (AUD-2018-009, dated April 26, 2018);
- Reviewed IPIA, OMB M-15-02, and OMB M-18-20 regarding requirements and guidance that apply to FHFA and OIG;
- Determined whether there has been any change in FHFA’s assessment of the applicability of IPIA to the Agency, and obtained a review by OIG’s Office of Counsel of that assessment;
- Determined whether FHFA published its PAR, and accompanying materials for fiscal year 2018, and posted that report, as well as any accompanying materials required by IPIA, on the Agency’s website;
- Determined whether FHFA was required to conduct program-specific risk assessments for each program or activity under 31 U.S.C. 3321 and OMB M-18-20;
- Interviewed applicable FHFA officials/staff to obtain any additional background information that may be required, such as improper payments assessments, related correspondence, and/or results of procedures performed, including any legal opinions received and decisions taken;
- Obtained and reviewed the Agency’s invoice and payments procedures, purchase charge card procedures, accrual and deobligation procedures, micro-purchase procedures and supplemental purchase cardholder guidance, and internal control self-assessments for fiscal year 2018; and
- Reviewed GAO’s report on its audit of FHFA’s financial statements for fiscal years 2018 and 2017, and inquired of FHFA staff about deficiencies in internal control over financial reporting that GAO communicated to FHFA during the audit. The purpose of our inquiries was to determine whether any of the deficiencies communicated related to the design and effectiveness of FHFA’s invoice and payment process controls.

We conducted this performance audit between December 2018 and May 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan

and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

APPENDIX: FHFA MANAGEMENT RESPONSE.....



Federal Housing Finance Agency

MEMORANDUM

TO: Marla Freedman
Deputy Inspector General for Audit

FROM: Mark Kinsey 
Chief Financial Officer

SUBJECT: Audit: *FHFA Complied with Applicable Improper Payment Requirements for Fiscal Year 2018*

DATE: May 6, 2019

Thank you for the opportunity to respond to the Federal Housing Finance Agency Office of Inspector General's (OIG) draft audit report titled *FHFA Complied with Applicable Improper Payment Requirements for Fiscal Year 2018* (Report). The Report presents the results of the OIG's performance audit to assess FHFA's compliance with the Improper Payments Information Act of 2002 (IPIA), as amended.

I am pleased that the OIG concluded that FHFA complied with the applicable provisions of the IPIA, as amended, as well as criteria established in the OMB Memorandum M-18-20, and the Report noted no weaknesses in the design of FHFA procedures and guidance.

I would like to acknowledge the dedicated OIG staff that worked with FHFA during this audit.

If you have any questions relating to our response, please do not hesitate to call me at (202) 649-3780.

ADDITIONAL INFORMATION AND COPIES.....

For additional copies of this report:

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Attn: Office of Investigations – Hotline
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Washington, DC 20219